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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2012-136*

12 **DENISE ANN MAIORANA**
13 **4359 Buckingham Court**
Vadnias Heights, MN 55127
14 **Registered Nurse License No. 561918**

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about January 20, 2000, the Board of Registered Nursing issued Registered
23 Nurse License Number 561918 to Denise Ann Maiorana (Respondent). The Registered Nurse
24 License expired on February 29, 2008, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
2 that the Board may discipline any licensee, including a licensee holding a temporary or an
3 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
4 Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
7 licensee or to render a decision imposing discipline on the license. Under section 2811,
8 subdivision (b), of the Code, the Board may renew an expired license at any time within eight
9 years after the expiration.

10 6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the
11 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
12 action during the period within which the license may be renewed, restored, reissued or
13 reinstated.

14 STATUTORY PROVISIONS

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 ...

20 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
21 against a health care professional license or certificate by another state or territory of the United
22 States, by any other government agency, or by another California health care professional
23 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
24 action."

25 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

26 8. Code section 4021 states:

27 "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section
28 11053) of Division 10 of the Health and Safety Code."

1 9. Code section 4022 provides:

2 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
3 humans or animals, and includes the following:

4 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
5 prescription,’ ‘Rx only’ or words of similar import.

6 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
7 by or on the order of a _____,’ ‘Rx only,’ or words of similar import . . .

8 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
9 prescription or furnished pursuant to Section 4006.”

10 10. Dilaudid, also known as Hydromorphone, is a Schedule II controlled substance as
11 designated by Health and Safety Code section 11055, subdivision (b)(1)(J), and a dangerous drug
12 within the meaning of Code section 4022. Dilaudid is a hydrogenated ketone of morphine and is
13 a narcotic analgesic. Its principal therapeutic use is relief of pain. Psychic dependence, physical
14 dependence, and tolerance may develop upon repeated administration of narcotics; therefore,
15 Dilaudid should be prescribed and administered with caution.

16 11. Fentanyl, also known by the brand name Sublimaze, is a Schedule II controlled
17 substances as designated by Health and Safety Code section 11055, subdivision (c)(8), and a
18 dangerous drug within the meaning of Code section 4022. It is a strong analgesic. It is used
19 preoperatively, during surgery, and in the immediate postoperative period.

20 12. Cocaine is a Schedule II controlled substance and narcotic as designated by Health
21 and Safety Code section 11055, subdivision (b)(6), and a dangerous drug within the meaning of
22 Code section 4022. It is a highly addictive recreational drug.

23 13. Cannabis, also known as Marijuana in its drug form, is a Schedule I controlled
24 substance as designated by Health and Safety Code section 11054, subdivision (d)(13), and a
25 dangerous drug within the meaning of Code section 4022. It is a hallucinogenic drug.

26 14. Propoxyphene, also known by its trade name Darvocet N, is a Schedule IV controlled
27 substance as designated by Health and Safety Code section 11057, subdivision (c)(2), and a
28 dangerous drug within the meaning of Code section 4022.

16. Percocet is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the meaning of Code section 4022. Percocet is the brand name for the narcotic substance Oxycodone (a synthetic opioid analgesic) with the non-narcotic substance acetaminophen. Percocet is a strong analgesic compound used in the management of moderate to moderately severe pain.

17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(Unprofessional Conduct – Out of State Discipline)
(Bus. & Prof. Code §2761(a)(4))

4

1 prohibited Respondent from: (1) administering or handling any narcotics or controlled substances;
2 (2) working in the home care setting; and (3) working as a registered nurse at any facility or
3 agency before obtaining the approval of the Minnesota Board. The limitations on Respondent's
4 license would be removed upon her completion of 2000 hours of employment as a registered
5 nurse and written notice from the Minnesota Board that the limitations had been lifted. The
6 Consent Order also placed several conditions on Respondent's Minnesota registered nurse license
7 that required Respondent to: (1) contact HPSP to initiate enrollment in the program within 14
8 days of the date of the Consent Order; (2) enter into a Participation Agreement with the HPSP
9 within 60 days of the date of the Consent Order and participate in and comply with all terms of
10 the program for a minimum of 36 months; (3) abstain from all mood-altering chemicals, including
11 alcohol, unless expressly authorized by a physician; (4) complete and sign health waivers at the
12 request of the Minnesota Board or the HPSP; (5) provide any additional relevant information
13 reasonably requested by the Minnesota Board; and (6) notify each present and future nursing
14 employer of the Consent Order within 10 days of the order or within 10 days of commencing
15 employment. The stayed suspension of Respondent's license could be administratively removed
16 upon the HPSP's written notification to the Minnesota Board of Respondent's successful
17 completion of the Participation Agreement and the Minnesota Board's written notification to
18 Respondent of the removal of the stayed suspension.

19 19. The underlying conduct supporting the Minnesota Board's disciplinary action is that
20 in or about June 2006, Respondent met with a Review Panel to discuss allegations that she
21 diverted Dilaudid and Percocet from her employer for personal use. The Board referred
22 Respondent to the HPSP. While in the program, Respondent was diagnosed with cannabis and
23 opioid dependence and cocaine abuse. Respondent successfully completed chemical dependency
24 treatment and was discharged from the HPSP in or about July 2008.

25 20. From on or about December 2008 until March 2009, while employed as a registered
26 nurse in the post-anesthesia care unit at a facility in Minneapolis, Minnesota, Respondent diverted
27 Dilaudid and Fentanyl from her employer for her personal use. On or about March 7, 2009,
28 Respondent resigned her position, admitted she was chemically dependent, and stated that she

1 intended to obtain treatment for her chemical dependency. On or about March 11, 2009,
2 Respondent self-referred to the HPSP. During her intake interview, Respondent stated that she
3 diverted medications scheduled for wasting, sometimes using them while at the facility at the end
4 of her shift and other times taking the drugs home for later use. On or about March 12, 2009,
5 Respondent entered chemical dependency treatment. On or about March 19, 2009, the HPSP
6 received Respondent's signed Participation Agreement. On or about April 14, 2009, Respondent
7 completed chemical dependency treatment.

8 21. On or about April 18, 2009, Respondent signed a "Stipulation to Cease Practicing
9 Nursing" (Stipulation) in which she agreed to refrain from the practice of nursing, and the
10 Minnesota Board agreed not to proceed with disciplinary action against Respondent while she
11 attended to her chemical dependency issues. On or about June 16, 2009, Respondent submitted a
12 toxicology sample that was positive for Propoxyphene. Respondent admitted that she consumed
13 four Vicodin pills that she had obtained from a friend, but she denied using Propoxyphene. On or
14 about June 24, 2009, the HPSP discharged Respondent for non-compliance. Respondent
15 acknowledged that she violated Minnesota statutes and that her conduct justified the Minnesota
16 Board's disciplinary action as described in paragraph 18, above.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
19 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 561918, issued to Denise
21 Ann Maiorana;

22 2. Ordering Denise Ann Maiorana to pay the Board of Registered Nursing the
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
24 Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: August 30, 2011 for Stacie Benson
LOUISE R. BAILEY, M.E.D., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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